

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION**

JOSEPH WILLIAMS,	§	
Institutional ID No. 1924881	§	
SID No. 5033432	§	
Previous TDCJ ID Nos. 818813, 1528780	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 1:17-CV-00140-C
	§	
JOHN WEEKS, <i>et al.</i> ,	§	
	§	
	§	
Defendants.	§	

**ORDER ACCEPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff, proceeding pro se and *in forma pauperis*, filed a civil rights complaint on September 18, 2017.¹ Under the then-applicable version of Special Order No. 3-301, the case was assigned to the docket of the United States Magistrate Judge for screening pursuant to 28 U.S.C. §§ 1915 and 1915A. The United States Magistrate Judge entered a Report and Recommendation on April 16, 2019, recommending that the instant complaint be dismissed with prejudice for failure to state a claim upon which relief may be granted. Plaintiff timely filed a response with objections to the Report and Recommendation.²

The undersigned Senior United States District Judge has conducted an independent, de novo review of the relevant portions of the record in this case and has examined the findings, conclusions, and recommendations of the Magistrate Judge. Plaintiff's objections are

¹ See *Cooper v. Brookshire*, 70 F.3d 377, 379 (5th Cir. 1995) (finding that prisoner's pro se complaint alleging a § 1983 action would be deemed "filed" as of the date he deposited it in the prison mail system, not as of the date it was received by the district court clerk).

² Plaintiff sought, and was granted, an extension of time to file his objections.

OVERRULED. The Court **ACCEPTS** and **ADOPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate.

IT IS THEREFORE ORDERED that Plaintiff's complaint and all claims alleged therein are **DISMISSED** with prejudice for failure to state a claim upon which relief may be granted.³

This dismissal shall count as a qualifying dismissal under 28 U.S.C. § 1915(g) and *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1996).

Dismissal of this action does not release Plaintiff or the institution where he is incarcerated from the obligation to pay any filing fee previously imposed. *See Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).

A copy of this order shall be sent to all parties appearing pro se by first class mail and to any attorney of record by first class mail or electronic notification.

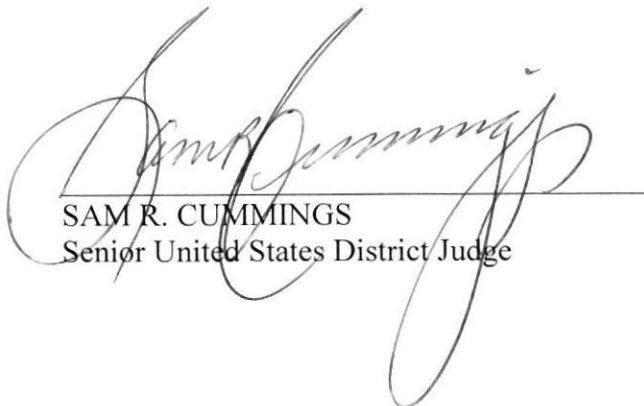
Plaintiff is advised that if he appeals this Order, he will be required to pay the appeal fee of \$505.00 pursuant to the PLRA, and he must submit an application to proceed *in forma pauperis* and a 6-month Certificate of Inmate Trust Account at the same time he files his notice of appeal.

Any pending motions are **DENIED**.

Judgment shall be entered accordingly.

SO ORDERED.

Dated September 9, 2019.



SAM R. CUMMINGS
Senior United States District Judge

³ As set out in the Report and Recommendation, those claims that are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994) are dismissed with prejudice to being asserted again until the *Heck* conditions are satisfied.